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of the State of California  
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7 Attorneys for Complainant  
8

9 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 JOSEPH EUGENE KALINOWSKI  
165 Lennon Lane, #200  
14 Walnut Creek, CA 94598

15 Certified Public Accountant Certificate No.  
56814

16 Respondent.  
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Case No. AC-2007-11

OAH No.

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
20 above-entitled proceedings that the following matters are true:

21 PARTIES

22 1. Carol Sigmann (Complainant) is the Executive Officer of the California  
23 Board of Accountancy. She brought this action solely in her official capacity and is represented  
24 in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Diann  
25 Sokoloff, Deputy Attorney General.

26 2. Joseph Eugene Kalinowski (Respondent) is representing himself in this  
27 proceeding and has chosen not to exercise his right to be represented by counsel.

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3. On or about September 7, 1990, the California Board of Accountancy issued Certified Public Accountant Certificate No. 56814 to Joseph Eugene Kalinowski (Respondent). The Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. AC-2007-11 and will expire on October 31, 2007, unless renewed.

## JURISDICTION

4. Accusation No. AC-2007-11 was filed before the California Board of Accountancy (Board), Department of Consumer Affairs, and is currently pending against Respondent. A true and correct copy of the Accusation and all other statutorily required documents were properly served on Respondent on February 27, 2007. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. AC-2007-11 is attached as Exhibit A and incorporated herein by reference as if fully set forth herein.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. AC-2007-11. Respondent has also carefully read, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. AC-2007-11.

1                   9.       Respondent agrees that his Certified Public Accountant Certificate is  
2 subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth  
3 in the Disciplinary Order below.

4                                   CIRCUMSTANCES IN MITIGATION

5                   10.       Respondent Joseph Eugene Kalinowski is admitting responsibility at an  
6 early stage in the proceedings.

7                                   CONTINGENCY

8                   11.       This stipulation shall be subject to approval by the California Board of  
9 Accountancy. Respondent understands and agrees that counsel for Complainant and the staff of  
10 the California Board of Accountancy may communicate directly with the Board regarding this  
11 stipulation and settlement, without notice to or participation by Respondent. By signing the  
12 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
13 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
14 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
15 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
16 action between the parties, and the Board shall not be disqualified from further action by having  
17 considered this matter.

18                                   OTHER MATTERS

19                   12.       The parties understand and agree that facsimile copies of this Stipulated  
20 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
21 force and effect as the originals.

22                                   DISCIPLINARY ORDER

23                   In consideration of the foregoing admissions and stipulations, the parties agree  
24 that the Board may, without further notice or formal proceeding, issue and enter the following  
25 Disciplinary Order:

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1 IT IS HEREBY ORDERED that Certified Public Accountant Certificate No.  
2 56814 issued to Respondent Joseph Eugene Kalinowski is revoked. However, the revocation is  
3 stayed and Respondent is placed on probation for three (3) years on the following terms and  
4 conditions.

5 1. **Obey All Laws.** Respondent shall obey all federal, California, other  
6 states' and local laws, including those rules relating to the practice of public accountancy in  
7 California.

8 2. **Submit Written Reports.** Respondent shall submit quarterly, written  
9 reports to the Board on a form obtained from the Board, within ten (10) days of completion of the  
10 quarter. The Respondent shall submit, under penalty of perjury, such other written reports,  
11 declarations, and verification of actions as are required. These declarations shall contain  
12 statements relative to Respondent's compliance with all the terms and conditions of probation.  
13 Respondent shall immediately execute all release of information forms as may be required by the  
14 Board or its representatives.

15 3. **Personal Appearances.** Respondent shall, during the period of probation,  
16 appear in person at interviews/meetings as directed by the Board or its designated  
17 representatives, provided such notification is accomplished in a timely manner.

18 4. **Comply With Probation.** Respondent shall fully comply with the terms  
19 and conditions of the probation imposed by the Board and shall cooperate fully with  
20 representatives of the Board of Accountancy in its monitoring and investigation of the  
21 Respondent's compliance with probation terms and conditions.

22 5. **Practice Investigation.** Respondent shall be subject to, and shall permit,  
23 practice investigation of the Respondent's professional practice. Such a practice investigation  
24 shall be conducted by representatives of the Board, provided notification of such review is  
25 accomplished in a timely manner.

26 6. **Comply With Citations.** Respondent shall comply with all final orders  
27 resulting from citations issued by the Board of Accountancy.

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1                   7.       **Tolling of Probation For Out-of-State Residence/Practice.** In the event  
2 Respondent should leave California to reside or practice outside this state, Respondent must  
3 notify the Board in writing of the dates of departure and return. Periods of non-California  
4 residency or practice outside the state shall not apply to reduction of the probationary period, or  
5 of any suspension. No obligation imposed herein, including requirements to file written reports,  
6 reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise  
7 affected by such periods of out-of-state residency or practice except at the written direction of the  
8 Board.

9                   8.       **Violation of Probation.** If Respondent violates probation in any respect,  
10 the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation  
11 and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke  
12 probation is filed against Respondent during probation, the Board shall have continuing  
13 jurisdiction until the matter is final, and the period of probation shall be extended until the matter  
14 is final.

15                  9.       **Completion of Probation.** Upon successful completion of probation,  
16 Respondent's license will be fully restored.

17                  10.      **Ethics Course/Examination.** Respondent shall take and pass with a score  
18 of 90 percent or better a Board approved ethics examination (within the first year of probation).

19                       If Respondent fails to pass said examination within the time period provided or  
20 within two attempts, Respondent shall so notify the Board and shall cease practice until  
21 Respondent takes and successfully passes said exam, has submitted proof of same to the Board,  
22 and has been notified by the Board that he may resume practice. Failure to pass the required  
23 examination no later than 100 days prior to the termination of probation shall constitute a  
24 violation of probation.

25                       Notwithstanding any other provision of this probation, failure to take and pass this  
26 examination within five years of the effective date of this order constitutes a separate cause for  
27 discipline of Respondent's license.

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11. **Active License Status.** Respondent shall at all times maintain an active license status with the Board, including during any period of suspension. If the license is expired at the time the Board's decision becomes effective, the license must be renewed within 30 days of the effective date of the decision.

12. **Cost Reimbursement.** Respondent shall reimburse the Board \$3,820.00 for its investigation and prosecution costs. The payment shall be made within the first two years of probation. The payment shall be made as follows: in quarterly payments, the final payment being due one year before probation is scheduled to terminate.

## ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Certified Public Accountant Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Accountancy,

DATED: May 4 2007

JOSEPH EUGENE KALINOWSKI  
Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the California Board of Accountancy of the Department of Consumer Affairs.

DATED: 5/7/07

EDMUND G. BROWN JR., Attorney General  
of the State of California

WILBERT E. BENNETT  
Supervising Deputy Attorney General

  
\_\_\_\_\_  
DIANN SOKOLOFF  
Deputy Attorney General

Attorneys for Complainant

Matter ID Number: 03541110SF2006402746  
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CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

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Certified Public Accountant Certificate No.  
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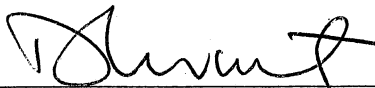
OAH No. .

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on August 30, 2007.

It is so ORDERED July 31, 2007.



FOR THE CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS

**Exhibit A**

**Accusation No. AC-2007-11**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California

2 WILBERT E. BENNETT

Supervising Deputy Attorney General

3 DIANN SOKOLOFF, State Bar No. 161082

Deputy Attorney General

4 California Department of Justice

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**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. AC-2007-11

13 JOSEPH EUGENE KALINOWSKI

165 Lennon Lane, #200

14 Walnut Creek CA 94598

**A C C U S A T I O N**

15 Certified Public Accountant Certificate No.  
56814

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Carol Sigmann (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Officer of the California Board of Accountancy, Department of  
22 Consumer Affairs.

23 2. On or about September 7, 1990, the California Board of Accountancy  
24 issued Certified Public Accountant Certificate Number 56814 to Joseph Eugene Kalinowski  
25 (Respondent). The Certified Public Accountant Certificate was renewed on April 28, 2006, and  
26 will expire on October 31, 2007, unless renewed.

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3. The Certified Public Accountant Certificate was expired, and therefore delinquent, during the following periods:

- A. November 1, 1999 through February 14, 2000;
- B. November 1, 2001 through February 18, 2002;
- C. November 1, 2003 through June 9, 2004;
- D. November 1, 2005 through April 27, 2006.

## STATUTES AND REGULATIONS

4. Disciplinary Authority/Unprofessional Conduct This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 5100 provides, in relevant part, that, after notice and hearing the Board may revoke, suspend or refuse to renew any permit or certificate granted, or may censure the holder of that permit or certificate for unprofessional conduct, including that specified in Section 5100 subdivision(g), that is, the willful violation of the Accountancy Act or of any rule or regulation promulgated by the Board.

6. Section 5050 states, in part, that "no person shall engage in the practice of public accountancy in this State unless such person is the holder of a valid permit to practice public accountancy issued by the board . . . ."

7. Licensed Practice. As pertinent herein, Code Section 5050 requires that a person be licensed by the Board in order to practice public accountancy in the State of California. Code Section 5051 states in pertinent part that a person shall be deemed to be engaged in the practice of public accountancy if he or she does any of the following:

- (a) Holds himself or herself out to the public in any manner as one skilled in the knowledge, science, and practice of accounting, and as qualified and ready to render professional service therein as a public accountant for compensation.
- (b) Maintains an office for the transaction of business as a public accountant.
- (c) Offers to prospective clients to perform for compensation, or who does

perform on behalf of clients for compensation, professional services that involve or require an audit, examination, verification, investigation, certification, presentation, or review of financial transactions and accounting records.

(f) Keeps books, makes trial balances, or prepares statements, makes audits, or prepares reports, all as a part of bookkeeping operations for clients.

(g) Prepares or signs, as the tax preparer, tax returns for clients.

(h) Prepares personal financial or investment plans or provides to clients products or services if others in implementation of personal financial or investment plans.

(i) Provides management consulting services to clients.

8. Section 5107(a) of the Code states:

"The executive officer of the board may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found to have committed a violation or violations of this chapter to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees. The board shall not recover costs incurred at the administrative hearing."

### **CAUSE FOR DISCIPLINE**

(Practice Without a Permit)

9. Respondent is subject to disciplinary action under section 5100(g) in conjunction with section 5050, in that between November 1, 2005 and April 27, 2006, Respondent practiced public accountancy with an expired license. Respondent admitted to practicing as a principal accountant in the firm of Thomas, Wiring, Doll and Company between November 1, 2005, and April 27, 2006. Respondent's renewal application was due on October 31, 2005, but he did not submit the application to the California Board of Accountancy until April 28, 2006.

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